

AMENDED IN SENATE AUGUST 18, 2014

AMENDED IN ASSEMBLY MAY 13, 2014

AMENDED IN ASSEMBLY APRIL 2, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2139**

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**Introduced by Assembly Member Eggman**

*(Principal coauthor: Senator Leno)*

***(Coauthors: Assembly Members Ammiano, Olsen, and Wieckowski)***

*(Coauthors: Senators Monning and Wolk)*

February 20, 2014

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An act to amend Sections 442.5 and 442.7 of the Health and Safety Code, relating to terminal illness.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2139, as amended, Eggman. End-of-life care: patient notification.

Under existing law, the State Department of Public Health licenses and regulates health facilities, including hospice facilities, and the provision of hospice services. Existing law establishes the Medical Practice Act, which provides for the regulation and licensure of physicians and surgeons by the Medical Board of California.

When a health care provider, as defined, makes a diagnosis that a patient has a terminal illness, existing law requires the health care provider to provide the patient, upon the patient's request, with comprehensive information and counseling regarding legal end-of-life options, as specified, and provide for the referral or transfer of a patient, as provided, if the patient's health care provider does not wish to comply with the patient's request for information on end-of-life options.

This bill would apply these provisions to another person authorized to make health care decisions, as defined, for a patient with a terminal illness diagnosis. The bill would additionally require the health care provider to notify, except as specified, the patient or, when applicable, the other person authorized to make health care decisions, when the health care provider makes a diagnosis that a patient has a terminal illness, of the patient's and the other authorized person's right to comprehensive information and counseling regarding legal end-of-life care options.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 442.5 of the Health and Safety Code is  
2 amended to read:

3 442.5. (a) When a health care provider makes a diagnosis that  
4 a patient has a terminal illness, the health care provider shall do  
5 both of the following:

6 (1) Notify the patient of his or her ~~right to~~, *right*, or when  
7 applicable, the right of another person authorized to make health  
8 care decisions for the ~~patient to~~, *patient, to* comprehensive  
9 information and counseling regarding legal end-of-life options.  
10 This notification ~~may be~~ *may be* provided at the time of diagnosis  
11 or at a subsequent visit in which the provider discusses treatment  
12 options with the patient or the other authorized person.

13 (2) Upon the request of the patient or another person authorized  
14 to make health care decisions for the patient, provide the patient  
15 or other authorized person with comprehensive information and  
16 counseling regarding legal end-of-life care options pursuant to this  
17 section. When a terminally ill patient is in a health facility, as  
18 defined in Section 1250, the health care provider, or medical  
19 director of the health facility if the patient's health care provider  
20 is not available, may refer the patient or other authorized person  
21 to a hospice provider or private or public agencies and  
22 community-based organizations that specialize in end-of-life care  
23 case management and consultation to receive comprehensive  
24 information and counseling regarding legal end-of-life care options.

25 (b) If a patient or another person authorized to make health care  
26 decisions for the patient, requests information and counseling

1 pursuant to paragraph (2) of subdivision (a), the comprehensive  
2 information shall include, but not be limited to, the following:

3 (1) Hospice care at home or in a health care setting.

4 (2) A prognosis with and without the continuation of  
5 disease-targeted treatment.

6 (3) The patient's right to refusal of or withdrawal from  
7 life-sustaining treatment.

8 (4) The patient's right to continue to pursue disease-targeted  
9 treatment, with or without concurrent palliative care.

10 (5) The patient's right to comprehensive pain and symptom  
11 management at the end of life, including, but not limited to,  
12 adequate pain medication, treatment of nausea, palliative  
13 chemotherapy, relief of shortness of breath and fatigue, and other  
14 clinical treatments useful when a patient is actively dying.

15 (6) The patient's right to give individual health care instruction  
16 pursuant to Section 4670 of the Probate Code, which provides the  
17 means by which a patient may provide written health care  
18 instruction, such as an advance health care directive, and the  
19 patient's right to appoint a legally recognized health care  
20 decisionmaker.

21 (c) The information described in subdivision (b) may, but is not  
22 required to, be in writing. Health care providers may utilize  
23 information from organizations specializing in end-of-life care  
24 that provide information on factsheets and Internet Web sites to  
25 convey the information described in subdivision (b).

26 (d) Counseling may include, but is not limited to, discussions  
27 about the outcomes for the patient and his or her family, based on  
28 the interest of the patient. Information and counseling, as described  
29 in subdivision (b), may occur over a series of meetings with the  
30 health care provider or others who may be providing the  
31 information and counseling based on the patient's needs.

32 (e) The information and counseling sessions may include a  
33 discussion of treatment options in a culturally sensitive manner  
34 that the patient and his or her family, or, when applicable, another  
35 person authorized to make health care decisions for the patient,  
36 can easily understand. If the patient or other authorized person  
37 requests information on the costs of treatment options, including  
38 the availability of insurance and eligibility of the patient for  
39 coverage, the patient or other authorized person shall be referred  
40 to the appropriate entity for that information.

1 (f) The notification~~in~~ *made pursuant to* paragraph (1) of  
2 subdivision (a) shall not be required if the patient or other person  
3 authorized to make health care decisions, as defined in Section  
4 4617 of the Probate Code, for the patient has already received the  
5 notification.

6 (g) For purposes of this section, “health care decisions” has the  
7 meaning set fourth in Section 4617 of the Probate Code.

8 (h) *This section shall not be construed to interfere with the*  
9 *clinical judgment of a health care provider in recommending the*  
10 *course of treatment.*

11 SEC. 2. Section 442.7 of the Health and Safety Code is  
12 amended to read:

13 442.7. If a health care provider does not wish to comply with  
14 his or her patient’s request or, when applicable, the request of  
15 another person authorized to make health care decisions, as defined  
16 in Section 4617 of the Probate Code, for the patient for information  
17 on end-of-life options, the health care provider shall do both of  
18 the following:

19 (a) Refer or transfer a patient to another health care provider  
20 that shall provide the requested information.

21 (b) Provide the patient or other person authorized to make health  
22 care decisions for the patient with information on procedures to  
23 transfer to another health care provider that shall provide the  
24 requested information.